

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO**

<b>JOHN NOAKES,</b>	:	<b>Case No. 1:23-cv-00284</b>
	:	
<b>Plaintiff,</b>	:	<b>Judge Michael R. Barrett</b>
	:	
<b>v.</b>	:	
	:	
<b>THE UNIVERSITY OF CINCINNATI, et</b>	:	
<b>al.,</b>	:	
	:	
<b>Defendants.</b>	:	

**DEFENDANTS' RENEWED<sup>1</sup> MOTION TO DISMISS**

Pursuant to Fed. R. Civ. P. 12(b)(6), Defendants University of Cincinnati (“UC”), Alecia Trammer (“Trammer”), Adrienne Lyles (“Lyles”), Bleuzette Marshall (“Marshall”), and Kim Gilkey<sup>2</sup> (“Gilkey,” and together with Trammer, Lyles, and Marshall, the “Individual Defendants”) move this Court to dismiss Counts I and II of Plaintiff John Noakes’ (“Plaintiff”) Complaint (the “Complaint”).<sup>3</sup> As explained in the Memorandum in Support, both counts fail to state a claim upon which relief can be granted.

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<sup>1</sup> The Court previously ruled on the Individual Defendants’ jurisdictional arguments asserted in Defendants’ initial Motion to Dismiss, (Doc. No. 55), and subsequently removed the remainder of the motion from the docket as a “docketing procedure,” without addressing Defendants’ arguments that Counts I and II of the Complaint fail to state a claim upon which relief may be granted. Defendants accordingly file this renewed motion to reassert those arguments here.

<sup>2</sup> Plaintiff incorrectly named UC as “The University of Cincinnati.” For purposes of this motion, and without waiving any defenses, “UC” refers to the correct name, “University of Cincinnati.” Additionally, Defendant Gilkey has now been substituted into this matter as successor to Ashleigh Wade, who is no longer employed by UC. Defendant Adrienne Lyles also is no longer employed by UC, but a successor has not been named for her position. Pursuant to Fed. R. Civ. P. 25(d), the substitution of the successors to public officers who are parties in their official capacities is automatic. Counsel for Defendants will file a notice of substitution for the successor to Adrienne Lyles when the successor has been identified.

<sup>3</sup> Counts III and IV of the Complaint were voluntarily dismissed by Plaintiff on Sept. 21, 2023. (*See* Notice of Dismissal of Counts III and IV, Doc. No. 39.).

Respectfully submitted,

/s/ Dominick S. Gerace

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